

SUBCHAPTER B—PROCEDURAL RULES

PART 11—GENERAL RULEMAKING PROCEDURES

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Subpart A—Rulemaking Procedures

§ 11.1 To what does this part apply?

This part applies to the issuance, amendment, and repeal of any regulation for which FAA (“we”) follows public rulemaking procedures under the Administrative Procedure Act (“APA”) (5 U.S.C. 553).

DEFINITION OF TERMS

§ 11.3 What is an advance notice of proposed rulemaking?

An advance notice of proposed rulemaking (ANPRM) tells the public that FAA is considering an area for rulemaking and requests written comments on the appropriate scope of the rulemaking or on specific topics. An advance notice of proposed rulemaking may or may not include the text of potential changes to a regulation.

§ 11.5 What is a notice of proposed rulemaking?

A notice of proposed rulemaking (NPRM) proposes FAA’s specific regulatory changes for public comment and contains supporting information. It includes proposed regulatory text.

§ 11.7 What is a supplemental notice of proposed rulemaking?

On occasion, FAA may decide that it needs more information on an issue, or that we should take a different approach than we proposed. Also, we may want to follow a commenter’s suggestion that goes beyond the scope of the original proposed rule. In these cases, FAA may issue a supplemental notice of proposed rulemaking (SNPRM) to give the public an opportunity to comment further or to give us more information.

§ 11.9 What is a final rule?

A final rule sets out new or revised requirements and their effective date. It also may remove requirements. When preceded by an NPRM, a final rule will also identify significant substantive issues raised by commenters in response to the NPRM and will give the agency’s response.

§ 11.11 What is a final rule with request for comments?

A final rule with request for comment is a rule that the FAA issues in final (with an effective date) that invites public comment on the rule. We usually do this when we have not first issued an ANPRM or NPRM, because we have found that doing so would be impracticable, unnecessary, or contrary to the public interest. We give our reasons for our determination in the preamble. The comment period often ends after the effective date of the rule. A final rule not preceded by an ANPRM or NPRM is commonly called an “immediately adopted final rule.” We invite comments on these rules only if we think that we will receive useful information. For example, we would not invite comments when we are just making an editorial clarification or correction.

§ 11.13 What is a direct final rule?

A direct final rule is a type of final rule with request for comments. Our reason for issuing a direct final rule without an NPRM is that we would not expect to receive any adverse comments, and so an NPRM is unnecessary. However, to be certain that we are correct, we set the comment period to end before the effective date. If we receive an adverse comment or notice of intent to file an adverse comment, we then withdraw the final rule before it becomes effective and may issue an NPRM.

§ 11.15 What is a petition for exemption?

A petition for exemption is a request to FAA by an individual or entity asking for relief from the requirements of a current regulation.

§ 11.17 What is a petition for rulemaking?

A petition for rulemaking is a request to FAA by an individual or entity asking the FAA to adopt, amend, or repeal a regulation.

§ 11.19 What is a special condition?

A special condition is a regulation that applies to a particular aircraft design. The FAA issues special conditions when we find that the airworthiness

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regulations for an aircraft, aircraft engine, or propeller design do not contain adequate or appropriate safety standards, because of a novel or unusual design feature.

GENERAL

§ 11.21 What are the most common kinds of rulemaking actions for which FAA follows the Administrative Procedure Act?

FAA follows the Administrative Procedure Act (APA) procedures for these common types of rules:

- (a) Rules found in the Code of Federal Regulations;
- (b) Airworthiness directives issued under part 39 of this chapter; and
- (c) Airspace Designations issued under various parts of this chapter.

§ 11.23 Does FAA follow the same procedures in issuing all types of rules?

Yes, in general, FAA follows the same procedures for all rule types. There are some differences as to which FAA official has authority to issue each type, and where you send petitions for FAA to adopt, amend, or repeal each type. Assume that the procedures in this subpart apply to all rules, except where we specify otherwise.

§ 11.25 How does FAA issue rules?

(a) The FAA uses APA rulemaking procedures to adopt, amend, or repeal regulations. To propose or adopt a new regulation, or to change a current regulation, FAA will issue one or more of the following documents. We publish these rulemaking documents in the FEDERAL REGISTER unless we name and personally serve a copy of a rule on every person subject to it. We also make all documents available to the public by posting them in the Department of Transportation's electronic docket at <http://dms.dot.gov>.

- (1) An advance notice of proposed rulemaking (ANPRM).
- (2) A notice of proposed rulemaking (NPRM).
- (3) A supplemental notice of proposed rulemaking (SNPRM).
- (4) A final rule.
- (5) A final rule with request for comments.
- (6) A direct final rule.

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(b) Each of the rulemaking documents in paragraph (a) of this section generally contains the following information:

- (1) The topic involved in the rulemaking document.
- (2) FAA's legal authority for issuing the rulemaking document.
- (3) How interested persons may participate in the rulemaking proceeding (for example, by filing written comments or making oral presentations at a public meeting).
- (4) Whom to call if you have questions about the rulemaking document.
- (5) The date, time, and place of any public meetings FAA will hold to discuss the rulemaking document.
- (6) The docket number and regulation identifier number (RIN) for the rulemaking proceeding.

§ 11.27 Are there other ways FAA collects specific rulemaking recommendations before we issue an NPRM?

Yes, the FAA obtains advice and recommendations from rulemaking advisory committees. One of these committees is the Aviation Rulemaking Advisory Committee (ARAC), which is a formal standing committee comprised of representatives of aviation associations and industry, consumer groups, and interested individuals. In conducting its activities, ARAC complies with the Federal Advisory Committee Act and the direction of FAA. We task ARAC with providing us with recommended rulemaking actions dealing with specific areas and problems. If we accept an ARAC recommendation to change an FAA rule, we ordinarily publish an NPRM using the procedures in this part. The FAA may establish other rulemaking advisory committees as needed to focus on specific issues for a limited period of time.

§ 11.29 May FAA change its regulations without first issuing an ANPRM or NPRM?

The FAA normally adds or changes a regulation by issuing a final rule after an NPRM. However, FAA may adopt, amend, or repeal regulations without first issuing an ANPRM or NPRM in the following situations:

- (a) We may issue a final rule without first requesting public comment if, for

good cause, we find that an NPRM is impracticable, unnecessary, or contrary to the public interest. We place that finding and a brief statement of the reasons for it in the final rule. For example, we may issue a final rule in response to a safety emergency.

(b) If an NPRM would be unnecessary because we do not expect to receive adverse comment, we may issue a direct final rule.

§ 11.31 How does FAA process direct final rules?

(a) A direct final rule will take effect on a specified date unless FAA receives an adverse comment or notice of intent to file an adverse comment within the comment period—generally 60 days after the direct final rule is published in the *FEDERAL REGISTER*. An adverse comment explains why a rule would be inappropriate, or would be ineffective or unacceptable without a change. It may challenge the rule's underlying premise or approach. Under the direct final rule process, we do not consider the following types of comments to be adverse:

(1) A comment recommending another rule change, in addition to the change in the direct final rule at issue. We consider the comment adverse, however, if the commenter states why the direct final rule would be ineffective without the change.

(2) A frivolous or insubstantial comment.

(b) If FAA has not received an adverse comment or notice of intent to file an adverse comment, we will publish a confirmation document in the *FEDERAL REGISTER*, generally within 15 days after the comment period closes. The confirmation document tells the public the effective date of the rule.

(c) If we receive an adverse comment or notice of intent to file an adverse comment, we will advise the public by publishing a document in the *FEDERAL REGISTER* before the effective date of the direct final rule. This document may withdraw the direct final rule in whole or in part. If we withdraw a direct final rule because of an adverse comment, we may incorporate the commenter's recommendation into another direct final rule or may publish a notice of proposed rulemaking.

§ 11.33 How can I track FAA's rule-making activities?

The best ways to track FAA's rule-making activities are with the docket number or the regulation identifier number.

(a) *Docket number*. We assign a docket number to each rulemaking proceeding. Each rulemaking document FAA issues in a particular rulemaking proceeding, as well as public comments on the proceeding, will display the same docket number. This number allows you to search DOT's Docket Management System (DMS) for information on most rulemaking proceedings. You can view and copy docket materials during regular business hours at the U.S. Department of Transportation, Plaza Level 401, 400 7th Street, SW., Washington, DC 20590-0001. Or you can view and download docketed materials through the Internet at <http://dms.dot.gov>. If you can't find the material in the electronic docket, contact the person listed under **FOR FURTHER INFORMATION CONTACT** in the document you are interested in.

(b) *Regulation identifier number*. DOT publishes a semiannual agenda of all current and projected DOT rulemakings, reviews of existing regulations, and completed actions. This semiannual agenda appears in the Unified Agenda of Federal Regulations, published in the *FEDERAL REGISTER* in April and October of each year. The semiannual agenda tells the public about DOT's—including FAA's—regulatory activities. DOT assigns a regulation identifier number (RIN) to each individual rulemaking proceeding in the semiannual agenda. This number appears on all rulemaking documents published in the *FEDERAL REGISTER* and makes it easy for you to track those rulemaking proceedings in both the *FEDERAL REGISTER* and the semiannual regulatory agenda.

§ 11.35 Does FAA include sensitive security information and proprietary information in the Docket Management System (DMS)?

(a) *Sensitive security information*. You should not submit sensitive security information to the rulemaking docket, unless you are invited to do so in our request for comments. If we ask for

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this information, we will tell you in the specific document how to submit this information, and we will provide a separate non-public docket for it. For all proposed rule changes involving civil aviation security, we review comments as we receive them, before they are placed in the docket. If we find that a comment contains sensitive security information, we remove that information before placing the comment in the general docket.

(b) *Proprietary information.* When we are aware of proprietary information filed with a comment, we do not place it in the docket. We hold it in a separate file to which the public does not have access, and place a note in the docket that we have received it. If we receive a request to examine or copy this information, we treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). We process such a request under the DOT procedures found in 49 CFR part 7.

§ 11.37 Where can I find information about an Airworthiness Directive, an airspace designation, or a petition handled in a region?

The FAA includes most documents concerning Airworthiness Directives, airspace designations, or petitions handled in a region in the electronic docket. If the information isn't in the docket, contact the person listed under **FOR FURTHER INFORMATION CONTACT** in the FEDERAL REGISTER document about the action.

§ 11.38 What public comment procedures does the FAA follow for Special Conditions?

Even though the Administrative Procedure Act does not require notice and comment for rules of particular applicability, FAA does publish proposed special conditions for comment. In the following circumstances we may not invite comment before we issue a special condition. If we don't, we will invite comment when we publish the final special condition.

(a) The FAA considers prior notice to be impracticable if issuing a design approval would significantly delay delivery of the affected aircraft. We consider such a request to be contrary to the public interest.

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(b) The FAA considers prior notice to be unnecessary if we have provided previous opportunities to comment on substantially identical proposed special conditions, and we are satisfied that new comments are unlikely.

§ 11.39 How may I participate in FAA's rulemaking process?

You may participate in FAA's rulemaking process by doing any of the following:

(a) File written comments on any rulemaking document that asks for comments, including an ANPRM, NPRM, SNPRM, a final rule with request for comments, or a direct final rule. Follow the directions for commenting found in each rulemaking document.

(b) Ask that we hold a public meeting on any rulemaking, and participate in any public meeting that we hold.

(c) File a petition for rulemaking that asks us to adopt, amend, or repeal a regulation.

§ 11.40 Can I get more information about a rulemaking?

You can contact the person listed under **FOR FURTHER INFORMATION CONTACT** in the preamble of a rule. That person can explain the meaning and intent of a proposed rule, the technical aspects of a document, the terminology in a document, and can tell you our published schedule for the rulemaking process. We cannot give you information that is not already available to other members of the public. Department of Transportation policy on oral communications with the public during rulemaking appears in appendix 1 of this part.

WRITTEN COMMENTS

§ 11.41 Who may file comments?

Anyone may file written comments about proposals and final rules that request public comments.

§ 11.43 What information must I put in my written comments?

(a) Your written comments must be in English and must contain the following:

(1) The docket number of the rulemaking document you are commenting

on, clearly set out at the beginning of your comments.

(2) Your name and mailing address, and, if you wish, other contact information, such as a fax number, telephone number, or e-mail address.

(3) Your information, views, or arguments, following the instructions for participation in the rulemaking document on which you are commenting.

(b) You should also include all material relevant to any statement of fact or argument in your comments, to the extent that the material is available to you and reasonable for you to submit. Include a copy of the title page of the document. Whether or not you submit a copy of the material to which you refer, you should indicate specific places in the material that support your position.

§ 11.45 Where and when do I file my comments?

(a) Send your comments to the location specified in the rulemaking document on which you are commenting. If you are asked to send your comments to the Docket Management System, you may send them in either of the following ways:

(1) By mail to: U.S. Department of Transportation, Docket Management System, 400 7th Street, SW., Plaza Level 401, Washington, DC 20591.

(2) Through the Internet to <http://dms.dot.gov/>.

(3) In any other manner designated by FAA.

(b) Make sure that your comments reach us by the deadline set out in the rulemaking document on which you are commenting. We will consider late-filed comments to the extent possible only if they do not significantly delay the rulemaking process.

(c) We may reject your paper or electronic comments if they are frivolous, abusive, or repetitious. We may reject comments you file electronically if you do not follow the electronic filing instructions at the Docket Management System web site.

§ 11.47 May I ask for more time to file my comments?

Yes, if FAA grants your request for more time to file comments, we grant all persons the same amount of time.

We will notify the public of the extension by a document in the FEDERAL REGISTER. If FAA denies your request, we will notify you of the denial. To ask for more time, you must file a written or electronic request for extension at least 10 days before the end of the comment period. Your letter or message must—

(a) Show the docket number of the rule at the top of the first page;

(b) State, at the beginning, that you are requesting an extension of the comment period;

(c) Show that you have good cause for the extension and that an extension is in the public interest;

(d) Be sent to the address specified for comments in the rulemaking document on which you are commenting.

PUBLIC MEETINGS AND OTHER PROCEEDINGS

§ 11.51 May I request that FAA hold a public meeting on a rulemaking action?

Yes, you may request that we hold a public meeting. FAA holds a public meeting when we need more than written comments to make a fully informed decision. Submit your written request to the address specified in the rulemaking document on which you are commenting. Specify at the top of your letter or message that you are requesting that the agency hold a public meeting. Submit your request no later than 30 days after our rulemaking notice. If we find good cause for a meeting, we will notify you and publish a notice of the meeting in the FEDERAL REGISTER.

§ 11.53 What takes place at a public meeting?

A public meeting is a non-adversarial, fact-finding proceeding conducted by an FAA representative. Public meetings are announced in the FEDERAL REGISTER. We invite interested persons to attend and to present their views to the agency on specific issues. There are no formal pleadings and no adverse parties, and any regulation issued afterward is not necessarily based exclusively on the record of the meeting.

PETITIONS FOR RULEMAKING AND FOR
EXEMPTION

§ 11.61 May I ask FAA to adopt, amend, or repeal a regulation, or grant relief from the requirements of a current regulation?

(a) Using a petition for rulemaking, you may ask FAA to add a new regulation to title 14 of the Code of Federal Regulations (14 CFR) or ask FAA to amend or repeal a current regulation in 14 CFR.

(b) Using a petition for exemption, you may ask FAA to grant you relief from current regulations in 14 CFR.

§ 11.63 How and to whom do I submit my petition for rulemaking or petition for exemption?

(a) For a petition of rulemaking or exemption filed under part 139 of this chapter:

(1) To the appropriate FAA airport field office in whose area the petitioner proposes to establish or has established its airport; and

(2) To the U.S. Department of Transportation, Docket Management System, 400 7th Street, SW., Room PL 401, Washington, DC 20591-0001 or to this Internet address: <http://dms.dot.gov/>.

(b) For all other cases,

(1) By paper submissions, send the original signed copy of your petition for rulemaking or exemption to this address: U.S. Department of Transportation, Docket Management System, 400 7th Street, SW., Room PL 401, Washington, DC 20591-0001.

(2) By electronic submission, submit your petition for rulemaking or exemption to FAA through the Internet using the Docket Management System Web site at this Internet address: <http://dms.dot.gov/>.

(c) In the future, FAA may designate other means by which you can submit petitions.

(d) Submit your petition for exemption 120 days before you need the exemption to take effect.

[Amdt. 11-50, 69 FR 22386, Apr. 26, 2004]

§ 11.73 How does FAA process petitions for rulemaking?

After we have determined the disposition of your petition, we will contact you in writing about our decision.

The FAA may respond to your petition for rulemaking in one of the following ways:

(a) If we determine that your petition justifies our taking the action you suggest, we may issue an NPRM or ANPRM. We will do so no later than 6 months after the date we receive your petition. In making our decision, we consider:

(1) The immediacy of the safety or security concerns you raise;

(2) The priority of other issues the FAA must deal with; and

(3) The resources we have available to address these issues.

(b) If we have issued an ANPRM or NPRM on the subject matter of your petition, we will consider your arguments for a rule change as a comment in connection with the rulemaking proceeding. We will not treat your petition as a separate action.

(c) If we have begun a rulemaking project in the subject area of your petition, we will consider your comments and arguments for a rule change as part of that project. We will not treat your petition as a separate action.

(d) If we have tasked ARAC to study the general subject area of your petition, we will ask ARAC to review and evaluate your proposed action. We will not treat your petition as a separate action.

(e) If we determine that the issues you identify in your petition may have merit, but do not address an immediate safety concern or cannot be addressed because of other priorities and resource constraints, we may dismiss your petition. Your comments and arguments for a rule change will be placed in a database, which we will examine when we consider future rulemaking.

§ 11.75 Does FAA invite public comment on petitions for rulemaking?

Generally, FAA does not invite public comment on petitions for rulemaking.

§ 11.77 Is there any additional information I must include in my petition for designating airspace?

In petitions asking FAA to establish, amend, or repeal a designation of airspace, including special use airspace,

you must include all the information specified by § 11.71 and also:

(a) The location and a description of the airspace you want assigned or designated;

(b) A complete description of the activity or use to be made of that airspace, including a detailed description of the type, volume, duration, time, and place of the operations to be conducted in the area;

(c) A description of the air navigation, air traffic control, surveillance, and communication facilities available and to be provided if we grant the designation; and

(d) The name and location of the agency, office, facility, or person who would have authority to permit the use of the airspace when it was not in use for the purpose to which you want it assigned.

§ 11.81 What information must I include in my petition for an exemption?

You must include the following information in your petition for an exemption and submit it to FAA as soon as you know you need an exemption.

(a) Your name and mailing address and, if you wish, other contact information such as a fax number, telephone number, or e-mail address;

(b) The specific section or sections of 14 CFR from which you seek an exemption;

(c) The extent of relief you seek, and the reason you seek the relief;

(d) The reasons why granting your request would be in the public interest; that is, how it would benefit the public as a whole;

(e) The reasons why granting the exemption would not adversely affect safety, or how the exemption would provide a level of safety at least equal to that provided by the rule from which you seek the exemption;

(f) A summary we can publish in the FEDERAL REGISTER, stating:

(1) The rule from which you seek the exemption; and

(2) A brief description of the nature of the exemption you seek;

(g) Any additional information, views or arguments available to support your request; and

(h) If you want to exercise the privileges of your exemption outside the United States, the reason why you need to do so.

§ 11.83 How can I operate under an exemption outside the United States?

If you want to be able to operate under your exemption outside the United States, you must request this when you petition for relief and give us the reason for this use. If you do not provide your reason or we determine that it does not justify this relief, we will limit your exemption to use within the United States. Before we extend your exemption for use outside the United States, we will verify that the exemption would be in compliance with the Standards of the International Civil Aviation Organization (ICAO). If it would not, but we still believe it would be in the public interest to allow you to do so, we will file a difference with ICAO. However, a foreign country still may not allow you to operate in that country without meeting the ICAO standard.

§ 11.85 Does FAA invite public comment on petitions for exemption?

Yes, FAA publishes information about petitions for exemption in the FEDERAL REGISTER. The information includes—

(a) The docket number of the petition;

(b) The citation to the rule or rules from which the petitioner requested relief;

(c) The name of the petitioner;

(d) The petitioner's summary of the action requested and the reasons for requesting it; and

(e) A request for comments to assist FAA in evaluating the petition.

§ 11.87 Are there circumstances in which FAA may decide not to publish a summary of my petition for exemption?

The FAA may not publish a summary of your petition for exemption and request comments if you present or we find good cause why we should not delay action on your petition. The factors we consider in deciding not to request comment include:

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- (a) Whether granting your petition would set a precedent.
- (b) Whether the relief requested is identical to exemptions granted previously.
- (c) Whether our delaying action on your petition would affect you adversely.
- (d) Whether you filed your petition in a timely manner.

§ 11.89 How much time do I have to submit comments to FAA on a petition for exemption?

The FAA states the specific time allowed for comments in the FEDERAL REGISTER notice about the petition. We usually allow 20 days to comment on a petition for exemption.

§ 11.91 How does FAA inform me of its decision on my petition for exemption?

- (a) The FAA will notify you in writing about its decision on your petition.
- (b) The FAA publishes a summary in the FEDERAL REGISTER that includes—
 - (1) The docket number of your petition;
 - (2) Your name;
 - (3) The citation to the rules from which you requested relief;
 - (4) A brief description of the general nature of the relief requested;
 - (5) Whether FAA granted or denied the request;
 - (6) The date of FAA's decision; and
 - (7) An exemption number.

§ 11.101 May I ask FAA to reconsider my petition for rulemaking or petition for exemption if it is denied?

Yes, you may petition FAA to reconsider your petition denial. You must submit your request to the address to which you sent your original petition, and FAA must receive it within 60 days after we issued the denial. For us to accept your petition, show the following:

- (a) That you have a significant additional fact and why you did not present it in your original petition;
- (b) That we made an important factual error in our denial of your original petition; or
- (c) That we did not correctly interpret a law, regulation, or precedent.

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§ 11.103 What exemption relief may be available to federal, state, and local governments when operating aircraft that are not public aircraft?

The Federal Aviation Administration may grant a federal, state, or local government an exemption from part A of subtitle VII of title 49 United States Code, and any regulation issued under that authority that is applicable to an aircraft as a result of the Independent Safety Board Act Amendments of 1994, Public Law 103–411, if—

- (a) The Administrator finds that granting the exemption is necessary to prevent an undue economic burden on the unit of government; and
- (b) The Administrator certifies that the aviation safety program of the unit of government is effective and appropriate to ensure safe operations of the type of aircraft operated by the unit of government.

[68 FR 25488, May 13, 2003]

Subpart B—Paperwork Reduction Act Control Numbers

§ 11.201 Office of Management and Budget (OMB) control numbers assigned under the Paperwork Reduction Act.

(a) The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) requires FAA to get approval from OMB for our information collection activities, and to list a record of those approvals in the FEDERAL REGISTER. This subpart lists the control numbers OMB assigned to FAA's information collection activities.

(b) The table listing OMB control numbers assigned to FAA's information collection activities follows:

14 CFR part or section identified and described	Current OMB control number
Part 14	2120–0539
Part 17	2120–0632
Part 21	2120–0018, 2120–0552
Part 34	2120–0508
Part 39	2120–0056
Part 43	2120–0020
Part 45	2120–0508
Part 47	2120–0024, 2120–0042
Part 49	2120–0043
Part 61	2120–0021, 2120–0034, 2120–0543, 2120–0571
Part 63	2120–0007
Part 65	2120–0022, 2120–0535, 2120–0571, 2120–0648

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14 CFR part or section identified and described	Current OMB control number
Part 67	2120-0034, 2120-0543
Part 77	2120-0001
Part 91	2120-0005, 2120-0026, 2120-0027, 2120-0573, 2120-0606, 2120-0620, 2120-0631, 2120-0651
Part 93	2120-0524, 2120-0606, 2120-0639
Part 101	2120-0027
Part 105	2120-0027, 2120-0641
Part 107	2120-0075, 2120-0554, 2120-0628
Part 108	2120-0098, 2120-0554, 2120-0577, 2120-0628, 2120-0642
Part 109	2120-0505
Part 119	2120-0593
Part 121	2120-0008, 2120-0028, 2120-0535, 2120-0571, 2120-0600, 2120-0606, 2120-0614, 2120-0616, 2120-0631, 2120-0651, 2120-0653, 2120-0691, 2120-0702
Part 125	2120-0028, 2120-0085, 2120-0616, 2120-0651
Part 129	2120-0028, 2120-0536, 2120-0616, 2120-0638
Part 133	2120-0044
Part 135	2120-0003, 2120-0028, 2120-0039, 2120-0535, 2120-0571, 2120-0600, 2120-0606, 2120-0614, 2120-0616, 2120-0620, 2120-0631, 2120-0653
Part 137	2120-0049
Part 139	2120-0045, 2120-0063
Part 141	2120-0009
Part 142	2120-0570
Part 145	2120-0003, 2120-0010, 2120-0571
Part 147	2120-0040
Part 150	2120-0517
Part 157	2120-0036
Part 158	2120-0557
Part 161	2120-0563
Part 171	2120-0014
Part 183	2120-0033, 2120-0604
Part 193	2120-0646
Part 198	2120-0514
Part 400	2120-0643, 2120-0644, 0649
Part 401	2120-0608
Part 440	2120-0601
SFAR 36	2120-0507
SFAR 71	2120-0620

[Doc. No. 1999-6622, 65 FR 50863, Aug. 21, 2000, as amended by Amdt. 11-47, 67 FR 9553, Mar. 1, 2002; Amdt. 11-49, 68 FR 61321, Oct. 27, 2003; Amdt. 11-49, 68 FR 70132, Dec. 17, 2003; 70 FR 40163, July 12, 2005]

APPENDIX 1 TO PART 11—ORAL COMMUNICATIONS WITH THE PUBLIC DURING RULEMAKING

1. What is an ex parte contact?

“Ex parte” is a Latin term that means “one sided,” and indicates that not all parties to an issue were present when it was discussed. An ex parte contact involving rulemaking is any communication between FAA and someone outside the government regarding a specific rulemaking proceeding, before that proceeding closes. A rulemaking proceeding does not close until we publish the final rule or withdraw the NPRM. Because

an ex parte contact excludes other interested persons, including the rest of the public, from the communication, it may give an unfair advantage to one party, or appear to do so.

2. Are written comments to the docket ex parte contacts?

Written comments submitted to the docket are not ex parte contacts because they are available for inspection by all members of the public.

3. What is DOT policy on ex parte contacts?

It is DOT policy to provide for open development of rules and to encourage full public participation in rulemaking actions. In addition to providing opportunity to respond in writing to an NPRM and to appear and be heard at a hearing, DOT policy encourages agencies to contact the public directly when we need factual information to resolve questions of substance. It also encourages DOT agencies to be receptive to appropriate contacts from persons affected by or interested in a proposed action. But under some circumstances an ex parte contact could affect the basic openness and fairness of the rulemaking process. Even the appearance of impropriety can affect public confidence in the process. For this reason, DOT policy sets careful guidelines for these contacts. The kind of ex parte contacts permitted and the procedures we follow depend on when the contact occurs in the rulemaking process.

4. What kinds of ex parte contacts does DOT policy permit before we issue an ANPRM, NPRM, Supplemental NPRM, or immediately adopted final rule?

The DOT policy authorizes ex parte contacts that we need to obtain technical and economic information. We need this information to decide whether to issue a regulation and what it should say. Each contact that influences our development of the regulation is noted in the preamble. For multiple contacts that are similar, we may provide only a general discussion. For contacts not discussed in the preamble, we place a report discussing each contact or group of related contacts in the rulemaking docket when it is opened.

5. Does DOT policy permit ex parte contacts during the comment period?

No, during the comment period, the public docket is available for written comments from any member of the public. These comments can be examined and responded to by any interested person. Because this public forum is available, DOT policy discourages ex parte contacts during the comment period. They are not necessary to collect the information the agency needs to make its decision.

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6. *What if the FAA believes it needs to meet with members of the public to discuss the proposal?*

If the FAA determines that it would be helpful to invite members of the public to make oral presentations to it regarding the proposal, we will announce a public meeting in the FEDERAL REGISTER.

7. *Are any oral contacts concerning the proposal permitted during the comment period?*

If you contact the agency with questions regarding the proposal during the comment period, we can only provide you with information that has already been made available to the general public. If you contact the agency to discuss the proposal, you will be told that the proper avenue of communication during the comment period is a written communication to the docket.

8. *If a substantive ex parte contact does occur during the comment period, what does FAA do?*

While FAA tries to ensure that FAA personnel and the public are aware of DOT policy, substantive ex parte contacts do occasionally occur, for example, at meetings not intended for that purpose. In such a case, we place a summary of the contact and a copy of any materials provided at the meeting in the rulemaking docket. We encourage participants in such a meeting to file written comments in the docket.

9. *Does DOT policy permit ex parte contacts the comment period has closed?*

DOT policy strongly discourages ex parte contacts initiated by commenters to discuss their position on the proposal once the comment period has closed. Such a contact at this time would be improper, since other interested persons would not have an opportunity to respond. If we need further information regarding a comment in the docket, we may request this from a commenter. A record of this contact and the information provided is placed in the docket. If we need to make other contacts to update factual information, such as economic data, we will disclose this information in the final rule docket or in the economic studies accompanying it, which are available in the docket.

10. *What if FAA needs to meet with interested persons to discuss the proposal after the comment period has closed?*

If FAA determines that it would be helpful to meet with a person or group after the close of the comment period to discuss a course of action to be taken, we will announce the meeting in the FEDERAL REGISTER. We will also consider reopening the comment period. If an inappropriate ex parte contact does occur after the comment period closes, a summary of the contact and a copy

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of any material distributed during meeting will be placed in the docket if it could be seen as influencing the rulemaking process.

11. *Under what circumstances will FAA reopen the comment period?*

If we receive an ex parte communication after the comment period has closed that could substantially influence the rulemaking, we may reopen the comment period. DOT policy requires the agency to carefully consider whether the substance of the contact will give the commenter an unfair advantage, since the rest of the public may not see the record of the contact in the docket. When the substance of a proposed rule is significantly changed as a result of such an oral communication, DOT policy and practice requires that the comment period be reopened by issuing a supplemental NPRM in which the reasons for the change are discussed.

12. *What if I have important information for FAA and the comment period is closed?*

You may always provide FAA with written information after the close of the comment period and it will be considered if time permits. Because contacts after the close of the comment may not be seen by other interested persons, if they substantially and specifically influence the FAA's decision, we may need to reopen the comment period.

PART 13—INVESTIGATIVE AND ENFORCEMENT PROCEDURES

Subpart A—Investigative Procedures

Sec.

- 13.1 Reports of violations.
- 13.3 Investigations (general).
- 13.5 Formal complaints.
- 13.7 Records, documents and reports.

Subpart B—Administrative Actions

- 13.11 Administrative disposition of certain violations.

Subpart C—Legal Enforcement Actions

- 13.13 Consent orders.
- 13.14 Civil penalties: General.
- 13.15 Civil penalties: Other than by administrative assessment.
- 13.16 Civil penalties: Administrative assessment against a person other than an individual acting as a pilot, flight engineer, mechanic, or repairman. Administrative assessment against all persons for hazardous materials violations.
- 13.17 Seizure of aircraft.
- 13.18 Civil penalties: Administrative assessment against an individual acting as a pilot, flight engineer, mechanic, or repairman.